

Application Serial No. 10/690,304
Amendment dated 27 September 2004
Reply to Office Action dated 25 June 2004

REMARKS

This responds to the Office Action dated 18 June 2004. Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and following remarks. New claim 48 has been added. Therefore, claims 1-35 and 43-48 remain pending in the application. Claims 36-42 have been withdrawn. Claims 1-3, 10, 11, 13, 15, 30, 31, 43, and 47 have been amended. Applicant notes that claim 26 was inadvertently skipped in the original application. Therefore, the claims may need to be renumbered. Applicant respectfully submits that the amendment, along with the arguments below, have resolved the rejections.

Allowable Claims

Applicant acknowledges the allowance of claims 16-28 and the indication that claims 2, 3, 10, 11, 15, 30-34, and 47 would be allowed if rewritten in independent form including all the limitations of the base claim. Claims 2, 10, 11, 15, 30, 31, and 47 have been rewritten in independent form and should be allowable. Claim 3 continues to depend from now independent claim 2, and should thus be allowable. Claims 2, 10, 11, 15, 30, 31, and 47 were amended solely to remedy the noted informality, and not to overcome prior art or for any other reason relating to the patentability of the claimed invention. Claims 2, 10, 11, 15, 30, 31, and 47 retain their original scope and have not been narrowed in any way. Claim 13 was also rewritten in independent form and should be allowable for the reasons presented below. Claims 32-34 depend from allowable claims.

Application Serial No. 10/690,304
Amendment dated 27 September 2004
Reply to Office Action dated 25 June 2004

Response to Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 1, 4-9, 12, 14, 29, 43, 44, and 46 under 35 U.S.C. § 102(b) as being anticipated by Kuntz (U.S. 5,117,876). The Examiner alleges generally that each of the limitations in these claims is identically shown by Kuntz '876. The Examiner does not, however include many details of the limitations of the present claims shown by Kuntz '876. The Examiner identifies only the first and second "structural connectors" (16 and 18), the flange 10 (which the Examiner refers to as a "mount"), and "a tapered portion (i.e. 'angled') of the flange disclosed by Kuntz '876.

As the Examiner knows, for a prior art reference to anticipate in terms of 35 U.S.C. § 102, each and every element of the claimed invention must be identically shown in a single reference. *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677 (Fed. Cir. 1988). Claim 1 recites, in part:

first and second structural connectors, each of the first and second structural connectors having a first surface and a second surface;
a circumferential seal disposed in the first surface of each of the first and second structural connectors;
a mount extending between and connecting the first and second structural connectors...

Kuntz '876 does not disclose two structural connectors. What the Examiner has referred to as "first and second structural connectors (16, 18)" are in fact "circumferential seals" concentrically positioned, one inside of another.

As noted, however, claim 1 recites first and second structural connectors and a circumferential seal *disposed in* each of the first and second structural connectors. The Examiner may not properly point to the concentric circumferential seals (16, 18) of Kuntz '876 and assert that they comprise both the first and second structural members *and* the circumferential seals *disposed in* each of the first and second structural

Application Serial No. 10/690,304
Amendment dated 27 September 2004
Reply to Office Action dated 25 June 2004

members. Rather, to be proper, the Examiner must point to separate elements in the prior art to show the separately claimed elements. The circumferential seals (16, 18) of Kuntz '876 must be asserted as either structural members or a circumferential seal, but not both. Thus, the Examiner's anticipation rejection is improper. Thus, claim 1 should be allowable.

Claims 4-9, 12, 14, 43, 44, and 46 were generically rejected, although the Examiner did not meet his burden of proving a case of anticipation. The Examiner is required to show what elements from Kuntz '876 disclose the limitations of the claims. According, Applicant respectfully requests that the rejections be substantiated or withdrawn. For example, the Examiner has not pointed to any probe, hub receptive of the probe, hub gasket, O-ring disposed around the probe, baffle internal to the hub, removable insert disposed in the probe, suction cup, or even a mount that is substantially straight. The "mount" referred to by the Examiner is a flange (10). The flange (10) disclosed by Kuntz '876 is certainly not substantially straight. If the Examiner believes the flange (10) is also the "suction cup," then what is the "mount?" Because the claim limitations are not identically disclosed by Kuntz '876, the anticipation rejections should be withdrawn.

Regarding claim 29, the Examiner pointed to the transition between elements 20 and 30 of Kuntz '876, stating that the "tapered portion...where element 30 meets element 20" anticipates the "angled mount" of claim 29. The angled mount recited in claim 29 is intended to cover the embodiment shown in Fig. 4. A fair reading of claim 29 in light of the specification simply will not allow the Examiner to reject properly claim 29 by relying on Kuntz '876. Thus, claim 29 should be allowable. Furthermore,

Application Serial No. 10/690,304
Amendment dated 27 September 2004
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claim 29 recites "a first connector attached to the first end of the angled mount and a second connector attached to a second end of the angled mount." The Examiner has failed to identify "first and second ends" of the round flange disclosed by Kuntz '876. Moreover, even if the circumferential seals (16, 18) of Kuntz '876 can be considered "connectors," they are certainly not attached to "ends" of the flange (10). The first circumferential seals (16, 18) identified by the Examiner as the "connectors" are concentrically located on the flange, not attached to ends thereof. Accordingly, Applicant respectfully requests that the rejection be withdrawn and claim 29 be allowed.

With respect to claim 43, Applicant notes that amended claim 43 is not anticipated by Kuntz '876 for several reasons. Amended claim 43 now recites:

a mount;
a suction cup attached to the mount;
a poppet valve opener separate and spaced laterally from the first suction cup attached to the mount."

The Examiner identifies the flange (10) of Kuntz '876 as the "mount." If the flange (10) is the mount, then the Examiner must identify a separate element as a suction cup *attached thereto*, which the Examiner has not done. Moreover, the Examiner must identically show a separate poppet valve opener. The actuator (42) of Kuntz '876 is not separate and spaced laterally from the "first suction cup." Kuntz '876 discloses the actuator (42) concentrically positioned in the middle of the flange (10). Actuator (42) is certainly not separate from the flange (42). Furthermore, the actuator (42) is not *spaced from* the flange (10) or any other "suction cup." Accordingly, Applicant respectfully requests that the rejection of claim 43 be withdrawn.

Application Serial No. 10/690,304
Amendment dated 27 September 2004
Reply to Office Action dated 25 June 2004

Response to Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 13, 35 and 45 under 35 U.S.C. § 103(a) as being unpatentable over Kuntz '876. The Examiner acknowledges that Kuntz '876 does not disclose the actuator assembly being sized to accommodate a Boeing C-17, but contends that modifying the Kuntz '876 device to find an optical working value accommodating a Boeing C-17 would be obvious.

However, the Kuntz '876 device is not capable of working with a Boeing C-17. No routine modification to the Kuntz '876 fitting will accommodate a Boeing C-17 defueling valve, hence one reason for the present invention. As described in the present application, unlike other aircraft, the defueling valve of a Boeing C-17 is recessed and housed behind a hinged door. See Fig. 2, element 170. The Kuntz '876 fitting will not attach to the Boeing C-17 defueling valve because the flange will not contact the wing of the plane. The door 170 obstructs connection of the Kuntz '876 fitting to the C-17 aircraft. Accordingly, the rejection of claims 13 and 35 should be withdrawn.

Applicant has no way of addressing the rejection of claim 45. The Examiner has not pointed to any "removable insert of variable length disposed in the hub" in Kuntz '876 or anything that would suggest such a limitation. Accordingly, Applicant requests that the Examiner cite something from Kuntz '876 to enable Applicant to respond to the rejection, or withdraw the rejection.

New Claim

Applicant has added claim 48 which recites "a first structural connector at a first location and a second structural connector spaced laterally from the first structural

Application Serial No. 10/690,304
Amendment dated 27 September 2004
Reply to Office Action dated 25 June 2004

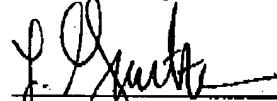
connector at a second location." Kuntz '876 does not disclose or suggest first and second structural connectors in separate, laterally spaced locations. Therefore, claim 48 should be allowable.

Conclusion

Applicant respectfully submits that all claims should be in condition for allowance. Applicant respectfully requests the Examiner to telephone the undersigned attorney if there are unresolved matters in the present application to expedite the examination process.

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Respectfully submitted,



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